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Memorial and Petition of the Society of
Friends ~ 1850

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HARVARD
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COPY OF A
MEMORIAL AND PETITION
OF THE
SOCIETY OF FRIENDS,
TO THE
LEGISLATURE OF VIRGINIA;
WITH A
LETTER OF BENJAMIN BATES,
ON THE SUBJECT OF
MILITIA FINES.

PROVIDENCE:
PRINTED BY JOSEPH KNOWLES.
1850.

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MEMORIAL, &c.

TO THE LEGISLATURE OF VIRGINIA.
THE MEMORIAL AND PETITION OF THE RELIGIOUS SOCIETY
OF FRIENDS, COMMONLY CALLED QUAKERS,
Respectfully Show,

THAT your memorialists, estimating the high regard with which the legislature will be disposed to consider every subject affecting the great principles of civil or religious liberty, beg leave to solicit your attention to the militia laws of this commonwealth, and to the incompatibility which sometimes results between the requisitions of the law, and the obligations of religious duty.

In this enlightened age and country, and before this legislature, your memorialists conceive it unnecessary to urge the unalienable rights of conscience, or to adduce any argument to show that the relations between man and his Creator, neither can, nor ought to be prescribed or controlled by any human authority. It is unnecessary, because the proposition is self-evident, and especially because it is one of the fundamental principles upon which the civil and political institutions of this country are established. This principle is recognised in the bill of rights ; it is confirmed by the law of 1785, passed in the enlightened and liberal spirit of that instrument ; and the *state itself*, by its convention which ratified the federal constitution, expressly declared, that "the liberty of conscience cannot be cancelled, abridged, restrained, or modified by any authority of the United States." The free exercise of religion, therefore, is not merely tolerated ; it is declared in the most solemn form—it is confirmed in the most explicit manner.

But the liberty of conscience, your memorialists conceive, cannot be restricted to the mere liberty of thinking, or to the silent and unseen modifications of religious opinion. Religion has duties to be performed, and it points out offences to be avoided ; its free exercise must, therefore, consist in an active compliance with its dictates enforced by no legal compulsion, restrained by no legal impediment.

Your memorialists, in common with every virtuous citizen, would disclaim any exemption under the color of religious liberty, from the universal obligation of moral duty. But the law of 1785, in making 'evert acts' of an injurious nature, the limit of the privilege, and the criterion of its abuse, removes all danger to the community. An encroachment on the rights of others, or violation of the moral law, under pretence of liberty of conscience, would immediately betray its own guilt and hypocrisy, and afford a legitimate cause for the interposition of the civil authority.

These considerations are suggested, as applicable to the case which is now submitted to the wisdom and justice of the legislature.

Your memorialists are Christians; and impressed with the firm conviction that war is forbidden under the gospel—they cannot bear arms. To require it under legal penalties, is to reduce them to the alternative of refusing a compliance with the laws of their country, or of violating what they most solemnly believe is, to *them*, a law of God, clothed with the most awful sanctions.

Your memorialists plead for no new doctrines—they set up no novel pretensions. They ask *permission* only to practice the precepts of Jesus Christ—to adhere to the principles which prevailed through the first centuries of the Christian dispensation, which pious men through every subsequent age have maintained; and which their predecessors, from the time they have been known as a religious society, under various forms of government, and through sufferings imposed by rigorous and persecuting laws, have uniformly supported.

It is true, that in the lapse of time, the spirit of persecution has faded before the lights of truth. Our own country, as already stated, has been particularly distinguished for maintaining the principles of civil and religious liberty, and for rejecting those of coercive law and religious intolerance. The very grievance to which we now solicit your attention, has been acknowledged and redressed. A legislature composed of enlightened statesmen and sages, who had assisted in establishing the chartered rights of America, who had seen the principles which your memorialists maintain, tested through the revolutionary war, convinced it is believed, of their sincerity, and of the justice of their claim, exempted them from the obliga-

tion to bear arms, and from certain fines and penalties which had been imposed on their non-compliance with military requisitions. But the laws are changed. They now require that your memorialists, notwithstanding the insuperable objection of their religious scruples, should be trained to arms. Their refusal subjects them to fines, which, within certain limitations, are fixed at the discretion of the courts martial, and become in numerous instances, extremely oppressive: Nor is this all—your memorialists conceive, that the voluntary payment of a fine imposed for adhering to religious duty, or the receiving of surplus money arising from the sale of their property seized for the satisfying of these demands, would be to acknowledge a delinquency, which they cannot admit, and to become parties in a traffic or commutation of their principles. Hence, also, considerable loss is sustained. And notwithstanding your memorialists may acknowledge that many officers of the government, in these cases, manifest great reluctance, and execute their trust with a scrupulous regard to the sufferers; yet there are other instances in which wanton depredations are made on the property of individuals.

Your memorialists are aware that it may be said, that the law does not discriminate between them and others, and that they ought equally to support the public burdens, and yield their services to the exigencies of the State.—This objection supposes that a general law cannot have a partial or unequal operation. It supposes, too, that what may be deemed a national concern, may supersede the chartered rights and privileges of the people. But your memorialists cannot suppose that these principles, which indeed are no other than the maxims of tyranny, will ever be deliberately adopted or acted upon by this legislature. If one member of the community believes that it is his duty to fight, and to slay the enemies of his country, and if another believes that he is prohibited by divine command from planning the destruction or shedding the blood of his fellow creatures, the question, as it relates to the present subject, is not *which* or *whether either is wrong*, but whether a law commanding *both* to take arms would not operate *unequally* and violate the rights of conscience? It would operate unequally, because it does not discriminate—because to the conscience of the one it would enjoin the per-

formance of a duty, to that of the other, the commission of a crime. It would violate the liberty of conscience, because it would compel, under pains and penalties, the performance of an act, which is believed offensive to the Divine Being. Human authority cannot, like the great Searcher of hearts, try the spirit of men respecting truth and error ; it cannot remit the penalties of sin, or control the convictions of the heart ; and therefore in this country at least, the liberty of conscience is wisely placed beyond the sphere of legislation, and protected from the encroachment of any power in the government.

It may be recollected, too, that in every nation of the civilized world, where this Society is found, they profess and maintain the same principles. That no hope of reward, no dread of punishment, nor confiscations, imprisonments or death, would induce them to bear arms against their country, or in any other cause whatever, and that every attempt to coerce them, would result, on the one side, in the triumph of principle, however severely tested, and in unavailing persecution on the other.

While it is, therefore, evident, that the ostensible object of the law, or training them to arms, cannot be effected ; and it is presumed from the general notoriety of their principles, that it is not even expected to be attained—while your memorialists believe that the principles they hold can in no sense prove injurious to the community, and are persuaded, that this legislature would disclaim the idea of raising revenue by laws inflicting fines on the free exercise of conscience—they trust, that a privilege conferred by the Supreme Being, and by the highest authority in this country, declared sacred and inviolable, may be safely expected from its justice and liberality. They, therefore, respectfully petition, that the laws imposing military requisitions and penalties for non-compliance, may be considered as they respect your petitioners, and such relief afforded as to the wisdom of the legislature shall seem just and necessary.

Signed by order and on behalf of a meeting of the representatives of the aforesaid Society, held in Dinwiddie county, the 17th of the 11th month 1810, by

BENJAMIN BATES,
Clerk at this time.

THE LETTER.

The friendly manner in which we discussed together the principles of our memorial, (now before the legislature) induces me to hope that a few additional observations will receive a candid and impartial consideration.

It would be useless I apprehend, in introducing this subject, to enter into any minute inquiry respecting the nature and extent of the rights of men in society; or to examine any of the various theories of government to find in how many ways these rights have been abused. The American people understand this subject—they did not, in establishing the empire of liberty on the basis of equal laws, look to the pittance of privilege which had in different ages been extorted from bigotry, or wrung from the grasp of power. No—they were men, and conscious of their rights—they were brethren, and saw that their rights were equal. To preserve them, they did not set up human beings, like themselves, with crowns and mitres on their heads, and commit to their ambition, cupidity and caprice, for safe keeping and distribution, those sacred immunities with which their Creator had endowed them, which he had made co-existent with mind itself, inherent and unalienable.

It was to preserve to themselves these inestimable blessings, to transmit them to their children; to guard them forever from usurpation; that, viewing the whole ground of polity with a discriminating eye, they declared irrevocably, that conscience belongs to God, and civil government to the people. On this principle their whole political structure is erected; hence the law emanates, and every power in the government is bound by its authority. So it stands upon paper—but how does it operate in practice? Is the liberty of conscience indeed preserved inviolate? Do the laws impose no other restraints on religious freedom than are sufficient to preserve the peace and order of society? Are none of the honest and inoffensive inhabitants of this commonwealth taxed, fined or harrassed, in their persons or property, on account of their religious tenets? These are questions on which the patriot and

statesman may ponder, but the answer is obvious and undeniable. The liberty of conscience is abridged; the laws do impose other restraints than those contemplated by the act establishing religious freedom—and a number of peaceable and useful citizens are exposed to fines and penalties on account of their religious principles. How is this infraction of natural and constitutional right to be accounted for? It will not be said that either these people or their principles were unknown, when the declaration of rights was made, and the form of government established. It will not be pretended that they were excluded from the common privileges of citizens and the common rights of humanity. No, but it is said that the government must be defended; and they are therefore enrolled for the purpose of learning the use of the firelock and bayonet, and for acquiring the art of inflicting death with the greatest expedition and effect. Men whose religion is a system of universal benevolence, who believe that God Almighty forbids animosity, revenge and violence, and who are assured that disobedience to his commands involves dreadful and eternal consequences.

This society maintains, with the framers of our constitution, and in conformity with the repeated declared sense of the American people, that government has no right to bring the laws of God and man into competition; and that there exists no authority in any department thereof to cancel, abridge, restrain or modify the liberty of conscience. When this declaration was solemnly made, the last time by the people of this State, and reciprocated by the whole Union, the Society of Friends were exempt by law, as well as by their constitutional privileges, both from militia duty and personal service in war. Did not the law which afterwards subjected them under heavy penalties to all the requisitions of the military system, abridge this liberty of conscience which had been thus solemnly guaranteed? And if it did, ought not an evidence of the fact and an appeal to the justice of their country, to be sufficient to restore them to their rights? The fact is undeniable, the appeal is made, and its success perhaps, ought not to be doubted. But in the mean time, the subject is variously canvassed, and many objections and difficulties are thrown in the way. We have referred, in our memorial, to the rights of conscience as a natural and constitutional

privilege—but we are told that the liberty of conscience is an abstract principle, and as such, is not to be relied on in particular cases. What is an abstract principle? Is it some remote uninteresting truth, which may be indifferently remembered or forgotten? or is it some proposition to which the understanding assents, but which is still to be tested by experience? Now it cannot be supposed that the men selected by the people to mark out the boundaries of the laws and to fix the limits of power, in a great, free and enlightened nation, would so insignificantly employ their time and abuse their trust, as to set down as a declaration of rights, any random proposition that might chance to occur to their recollection, as true. The fathers of American liberty did not attract to themselves the gratitude of their country, and the admiration of the world by writing merely what was true, but for selecting the very truths they meant to establish; for drawing an insuperable, unalterable line of separation between those powers which a free people may confide in their government, and those inherent and unalienable rights which they retain to themselves. It was expressly for the preservation of these rights that the constitution was formed. Its barriers were laid strong and deep around them, and wherever they are broken down, tyranny and oppression will resume their course. Nor can it be thought that this liberty of conscience was introduced as a new or untried principle. The statesmen of our country were not such novices in the subjects of law and government, or so unacquainted with human nature, as to suppose that the rights of conscience had never been tested. Nor would they, if such had been their opinion, expose the nation to difficulties and danger by a novel and presumptuous experiment! No, these men understood their subject; its nature, its history and its importance, were familiar to their minds. They knew how readily the pride of opinion and the possession of power, combine to produce intolerance. They knew that a denial of these rights constitutes the worst species of tyranny. Nations have groaned for ages under its influence; and to preserve this country from a similar fate, they held forth the rights of conscience, not as an abstract metaphysical notion, but as a living indestructible privilege, of which no law should ever deprive a citizen.

But why was it necessary to guard these rights with such

anxious solicitude? Why enshrine them in the constitution, and protect them with such jealous care from the powers of the legislature? Is not the government derived from the people? Is it not administered by their agents, and solely for their benefit? And cannot the people be trusted with the guardianship of their own privileges? The answer is plain—a government of the people is necessarily a government of the majority; but the majority, if they are not bound by constitutional restraints, may, in securing their own rights, overlook or violate the rights of others. But would it not be mockery to tell the minority, under these circumstances, they ought not to complain—that their country is a free republic, and themselves integral parts of the sovereign authority? Would they not be sensible, that their rights and liberties depended on the will, and lay at the mercy of individuals; and that, however many or few those individuals might be, and under whatever forms their proceedings might be conducted, an arbitrary government is still a despotism, and the subjects of it are slaves? Hence the necessity of constitutional restrictions; and when these are properly established—when the government simply occupies the ground on which it is placed, and exercises only the powers which have been submitted to its discretion, the decisions of a majority become the legitimate rules of action, and every member of the community (whatever be his opinion of their wisdom or experience) is bound to obey them. This is presumed to be the true definition of a free government. But of what avail, under any form of government, is the attempt to enslave the mind? As soon would the academy devise means to arrest or control the revolution of the solar system, as the legislature of any country find laws that would bind the free spirit of man. How long has tyranny tortured its invention and varied its apparatus for discovering this grand desideratum?—Creeds, tests, and anathemas have been tried—stripes, fettters and dungeons, have done their best—racks, flames and gibbets have exhausted all their powers, and all have ended in miserable disappointment—and is it not extremely difficult to conceive how the notion ever came to be entertained, on this side the Atlantic, that the thing is still practicable? The genius of our country did not borrow even the mildest feature of such a system; and it is certainly not congenial with our habits of thinking.

suppose that the mind may be fettered by putting a chain upon the leg ; or that a man's heart can be divested of its convictions by a warrant to take his cattle. But, admitting that the liberty of conscience is both a natural and constitutional right, and that it is physically impossible to control the free agency of the mind, still, it is contended, an expedient may be found which shall protect those rights from violation, and at the same time satisfy the law, which would otherwise infringe them. Thus—if the legislature enjoin the performance of certain duties, on which it is supposed, the very existence of the government depends, and those duties happen to interfere with the constitutional rights of any individual, let that individual pay an equivalent and be excused. If it be a military service, for instance, and his religious principles forbid him to fight, let him pay a tax for the support of schools, and make the tax equal to the military service. The argument, fairly stated, stands thus—the legislature shall not restrain the free exercise of conscience ; but they may levy a tax upon the advantages derived from the exemption. Have I any objection to the support of schools ? Far from it—I should rejoice to see knowledge and virtue diffused among the lower classes of society ; I would cheerfully pay an equivalent for the purpose, and might even be disposed to encourage it by a voluntary contribution ; but when I pay a partial tax, a fine, I am neither discharging the common duties of a citizen, nor doing an act of benevolence. I am paying what is considered by the government as a debt—and for what consideration ?—Plainly for being allowed to enjoy the liberty of conscience. But I do not derive the liberty of conscience from the government ; I hold it from a tenure antecedent to the institutions of civil society. It was secured to me in the social compact, and it was never submitted to the legislature at all. They have, therefore, no such privilege to grant or withhold, at their pleasure ; and certainly no pretence or authority to sell it for a price. It appears then, that this exclusive tax for the support of schools, is a groundless and oppressive demand. It is a muster-fine in disguise—and violates the very principle which it seemed to respect.

But is it not unreasonable, it is asked, that our fellow citizens, who believe war to be allowable and necessary,

should be subjected to the hardships and privations incident to the training and service, while we, under the protection of our religious privileges, enjoy a complete exemption? We answer, No. If those citizens do believe that war is necessary for their defence; if they conceive it to be their duty and interest to fight; if it accords with their religious principles to repel aggression by the sword; if, in the full exercise of their privileges, they give to the government authority to command them in these services; this is their own act, and they cannot complain of the consequences! But a man is not the judge of his neighbor's conscience, and if the powers they surrender for themselves, involve the constitutional privileges of others, they are binding only on those who have consented to them.

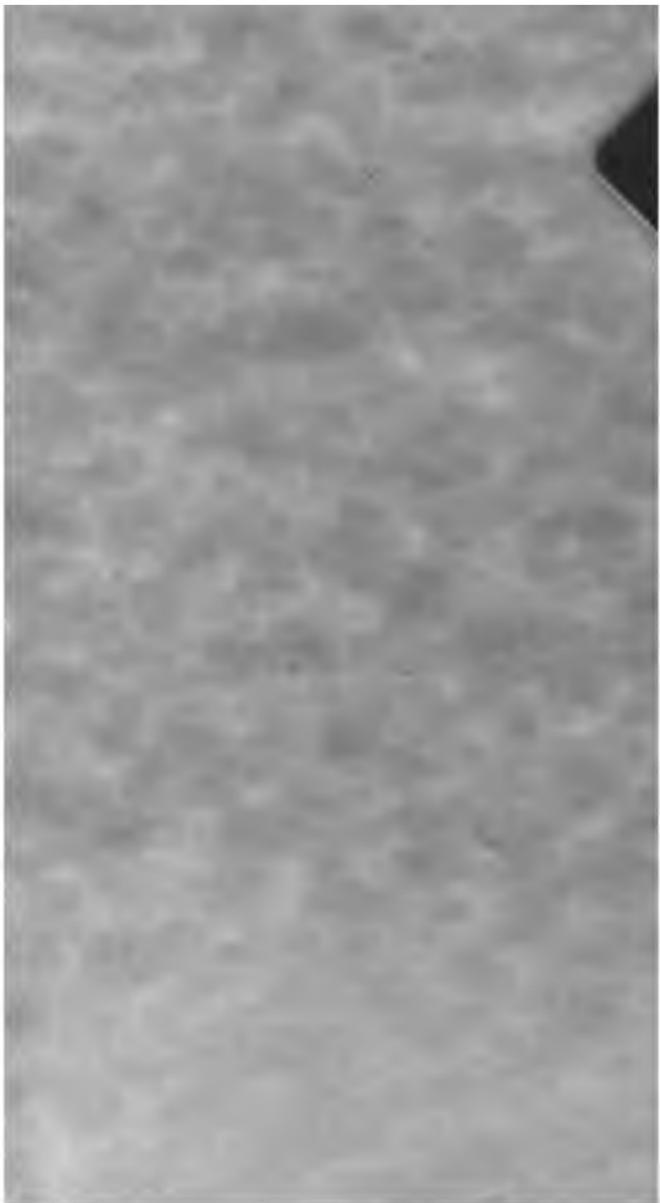
May I inquire what it is that constitutes the obligation to fight for one's country? I mean to apply the question to a free people—for under a despotism the will of the master is the obligation of the slave. What is it, then, in a free country, that induces a man to go to war? Is it for the protection of his rights? But what rights has he to protect, whose most essential privileges are already wrested from him? Or is it the interest which every individual feels in preserving his property—his home, his children, and his friends? Have not all some interesting attachment—have not all some endearing objects that cling about the heart? Is not the aggregate of these their country? Every man, therefore, engaged by common consent, in a defensive war, considers that he is fighting for himself and his domestic enjoyments; his home identified with his country—and he is using those means which his own reason and conscience approve for its defence. We too have homes, and a little property, and children and friends, whose welfare is dearer than life. We too connect them with our country, and for their preservation would make any sacrifice which our reason and conscience would approve. But these forbid us to fight.

The Being to whom we are indebted for all our enjoyments, and whose divine providence is our best protection, has not committed to us the right to destroy our fellow creatures, or to seek redress of our wrongs by the shedding of human blood. But we know he has communicated to man a principle capable of silencing war and violence. There is, my friend, in the religion taught by Jesus Christ,

a power able to reconcile us to God and to one another. It can divest the heart that receives it, of its propensities to wrongs and violence; and implant in their place the disposition to suffer wrongs and violence for its sake. Thousands of living witnesses bear testimony to this divine principle. Thousands who would suffer any privation or punishment, rather than impede, by their example, its influence and increase. And ought it not to console the friend of his country, and of his species, to see its growth; and to be assured, by indubitable evidence, that it is possible to return good for evil—to love even our very enemies; and for man, in all situations, to be the friend of man.

I am with much respect, thy Friend,

B. BATES.



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